

**UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES**

Secretary of Housing and Urban Development, on)	
behalf of [REDACTED], [REDACTED],)	
and their two minor children,)	
)	
Charging Party,)	
)	
v.)	HUD ALJ No.
)	FHEO No. 01-13-0117-8
Patrick Keating, as trustee of Eleven Trust and in his)	
personal capacity,)	
)	
Respondent.)	
)	
)	
)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On December 12, 2012, Complainant [REDACTED] filed a complaint with the United States Department of Housing and Urban Development ("HUD"), alleging that Respondent Patrick Keating discriminated against her in violation of the Fair Housing Act ("the Act"), as amended, 42 U.S.C. §§ 3601-19. On June 26, 2013, the complaint was amended to include [REDACTED] as a Complainant.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination on behalf of an aggrieved person following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. § 3610(g)(1), (2). The Secretary has delegated to the General Counsel, who has redelegated to the Regional Counsel, the authority to issue such a Charge following a determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee. 24 C.F.R. §§ 103.400, 103.405; 76 Fed. Reg. 42,463, 42,465 (July 18, 2011).

The Director of the Office of Fair Housing and Equal Opportunity for New England has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case, and she has authorized the issuance of this Charge of Discrimination by the Regional Counsel. 42 U.S.C. § 3610(g)(2).

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based upon HUD's investigation of the allegations contained in the aforementioned complaint and the findings contained in the attached Determination of Reasonable Cause, the Secretary charges Respondent with violating the Act as follows:

A. LEGAL AUTHORITY

1. It is unlawful to discriminate in the sale or rental, to refuse to negotiate for the sale or rental, or to otherwise make unavailable or deny, a dwelling to any person because of the person's familial status. 42 U.S.C. § 3604(a); 24 C.F.R. § 100.60(a), (b)(2).
2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of the rental of a dwelling, or in the provision of services or facilities in connection with a dwelling, because of that person's familial status. 42 U.S.C. § 3604(b); 24 C.F.R. § 100.65(a).
3. It is unlawful for any person to make any statement with regard to the sale or rental of the dwelling that indicates any preference, limitation, or discrimination based on familial status. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a).

B. PARTIES AND SUBJECT PROPERTY

4. At all times relevant to this action, Complainant [REDACTED] ("Complainant [REDACTED]") was the mother of two children, [REDACTED] and [REDACTED], who were domiciled with her. Complainant [REDACTED] was also pregnant at the time of the alleged discriminatory acts.
5. Complainant [REDACTED] ("Complainant [REDACTED]") has been domiciled with Complainant [REDACTED] since August 2011 and is the father of [REDACTED].
6. Complainant [REDACTED], Complainant [REDACTED], and their two children are members of a protected class as defined by the Act based on their familial status. 42 U.S.C. § 3602(k); 24 C.F.R. § 100.20.
7. Complainant [REDACTED], Complainant [REDACTED], and their two children are aggrieved persons under the Act. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.
8. At all times relevant to this action, Complainant [REDACTED] lived at 11 Charlonne Street, Apartment [REDACTED], in Jaffrey, New Hampshire. Apartment [REDACTED] at Charlonne Street is a two-story, two-bedroom apartment with one bathroom, a kitchen, and a living room. This property constitutes a dwelling under the Act. 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20.

9. At all times relevant to this action, Complainants' rent was subsidized by a housing choice voucher administered by the New Hampshire Housing Finance Authority ("NHHFA").
10. At all times relevant to this action, the property at 11 Charlonne Street ("the subject property") was owned by Eleven Trust.
11. At all times relevant to this action, Respondent Patrick Keating was the trustee for Eleven Trust and actively managed the subject property.

C. FACTUAL ALLEGATIONS

12. On January 26, 2011, Complainant [REDACTED] and Respondent Patrick Keating signed a one-year lease beginning on February 1, 2011, for the rental of Apartment [REDACTED] at the subject property. The lease was to proceed on a month-to-month basis after the first year. Respondent Keating signed this lease as Trustee for Eleven Trust.
13. In August 2011, Complainant [REDACTED] moved into Complainant [REDACTED] apartment at the subject property and was added to Complainant's household with NHHFA.
14. In early July 2012, Complainant [REDACTED] informed Respondent Keating that she was pregnant.
15. In a letter to NHHFA dated July 6, 2012, Respondent Keating wrote: "[Complainant [REDACTED]] family will be growing to 5, in the near future, and the apt. is not big enough for that. The trust has chosen not to renew her lease."
16. In a letter to Complainant [REDACTED] dated July 7, 2012, Respondent Keating wrote: "With the events of the recent months, and your addition to your family coming, The Trust is not renewing your monthly lease effective next month. The apartment is too small and not suitable. This will give you the opportunity to find a place more suitable for your growing family prior to the new arrival."
17. In an Eviction Notice dated July 10, 2012, Respondent Keating informed Complainant [REDACTED] that her lease would not be renewed. As the reason for eviction, Respondent Keating wrote: "Too many people for Apartment."
18. In an Eviction Notice dated August 25, 2012, Respondent Keating informed Complainant [REDACTED] that her lease would not be renewed. As the reason for eviction, Respondent Keating wrote: "Apartment too small for family."
19. Eventually, Respondent Keating filed for possession of the property in New Hampshire state court, and a hearing was held on the matter on September 19, 2012.
20. During the hearing, the court asked Respondent Keating for the basis of his argument to have Complainants and their two children evicted. Respondent Keating replied,

“[S]he told me she was pregnant again, and that would put five people into the apartment which the apartment is too small . . . so I gave her a notice to leave.”

21. When the court asked if this was an issue of unpaid rent or of too many people, Respondent Keating stated that there would be too many people in the apartment. Later in the proceeding, Respondent Keating also indicated that rent was past due. The court engaged the parties in a discussion as to what rent was due and when Complainants would be able to move.
22. On September 19, 2012, the court issued its decision allowing Complainants and their two children to stay in the apartment until October 31, 2012, but ordering that she pay \$256 to Respondent on September 22, 2012, October 6, 2012, and October 20, 2012.
23. On November 1, 2012, Complainants and their two children vacated their apartment at the subject property. On December [REDACTED], 2012, Complainant [REDACTED] gave birth.

D. FAIR HOUSING ACT VIOLATIONS

24. Respondent Keating violated Section 804(a) of the Act by making housing unavailable when he evicted Complainants and their two children because Complainant [REDACTED] was pregnant. 42 U.S.C. § 3604(a); 24 C.F.R. § 100.60(a).
25. Respondent Keating violated Section 804(b) of the Act by imposing different terms and conditions by evicting Complainants and their two children because Complainant [REDACTED] was pregnant. 42 U.S.C. § 3604(b); 24 C.F.R. § 100.65(a).
26. Respondent Keating's written statements to Complainant [REDACTED] on July 7, 2012, July 10, 2012, and August 25, 2012, violated Section 804(c) of the Act by indicating “a[] preference, limitation, or discrimination based on familial status . . .” 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a).
27. As a result of Respondent Keating's actions, Complainants and their two children suffered damages including, but not limited to, emotional distress, loss of a housing opportunity, and inconvenience.

III. CONCLUSION

WHEREFORE, the Secretary of Housing and Urban Development, through the Office of the Regional Counsel for New England, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondent with engaging in discriminatory housing practices in violation of the Fair Housing Act and prays that an order be issued that:

1. Declares that the discriminatory housing practices of Respondent as set forth above violate the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-3619;
2. Enjoins Respondent from further violations of the Act;

3. Awards such damages as will fully compensate Complainants and their two children for all emotional distress, loss of housing opportunity, and inconvenience caused by Respondent's discriminatory conduct;
4. Awards a civil penalty against Respondent for each violation of the Act pursuant to 42 U.S.C. § 3612(g)(3);
5. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,



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